

### **REMARKS**

Claims 68, 71, 73, 74, and 85-87 are pending in this application and are currently under consideration. By the present Amendment, claims 68, 71, 85, and 86 are amended. No new matter is added, as support for these amendments may be found throughout the specification. Upon entry of this Amendment, claims 68, 71, 73, 74, and 85-87 will be pending.

### **Objection to Claims**

Claim 86 was objected to for failing to define the acronyms "DORIE" and "DMRIE" by providing the corresponding definition at the first occurrence in the claim. Without acquiescing to the reasoning offered in the Action, Applicants have amended the claims to recite "dioleyl Rosenthal Inhibitor Ether (DORIE) carboxylate, dimyristyl Rosenthal Inhibitor Ether (DMRIE) carboxylate." Accordingly, Applicants believe the objection has been overcome.

### **Rejections Under 35 U.S.C. § 112, second paragraph**

Claim 86 was rejected for allegedly being indefinite on the basis of the parenthetical statements present in the claim. Without acquiescing to the reasoning offered by the Examiner and to expedite prosecution, Applicants have amended Claim 86 to remove the parentheses, with the exception of the parentheses enclosing the first instance of each of "DORIE" and "DMRIE". Applicants note that parenthetical statements, i.e., "methionine-methylester," methionine-leucine methylester," and methionine-leucine-phenylalanine-methylester" refer to the terminal group that replaces the propyl group in DMRIE carboxylate propyl amide (see e.g., paragraphs [0389] and

[0408]). Accordingly, Applicants submit that the present rejection of claim 86 has been overcome, and therefore, because this was the only rejection of record against claim 86, Applicants respectfully submit that this claim is allowable.

**Rejections Under 35 U.S.C. §103**

Claims 68, 71, 73-74, 85, and 87 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jessee (WO 95/02698) in view of Felgner (WO 91/17424). Applicants respectfully traverse the rejection.

The Examiner alleges that Jessee teaches compositions of cationic lipids for transfecting eukaryotic cells with nucleic acids. In particular, the Examiner points to the cationic lipid having formula A at p. 19 of Jessee and asserts that, when substituent "X" of formula A is carboxyspermine, such lipids of Jessee embrace embodiments of the lipids recited in claims 68, 71, 73-74, 85, and 87. Without acquiescing to the reasoning offered by the Examiner and solely to expedite prosecution, Applicants have amended the claims to further define the recited cationic lipids. In particular, Applicants have amended claims 68, 71, and 85 to specify that, with respect to R<sub>3</sub> and R<sub>4</sub>, the "heteroalkyl" is "C<sub>1</sub>-C<sub>5</sub> heteroalkyl" and further, to delete "other bioactive or pharmaceutical agent" as an option for the substituent at position R<sub>6</sub>. Accordingly, Jessee does not teach the cationic lipids recited in the present claims.

Felgner, which was cited for allegedly teaching cationic lipid technology using positively charged synthetic cationic lipids in the form of liposomes, or vesicles, which are capable of lipid-

DNA complexes, does not disclose the cationic lipids presently recited. Accordingly, Felgner cannot cure the deficiencies of Jessee.

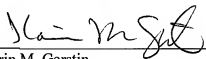
Based on the foregoing, Applicants respectfully submit that all of the elements of the present invention are neither taught nor suggested by the combination of Jessee and Felgner and therefore, the Examiner has not established a prima facie case of obviousness. Accordingly, reconsideration and withdrawal are respectfully requested.

**CONCLUSION**

In view of the foregoing, Applicants believe all pending claims in this Application are in condition for Allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this submission.

No fees are believed due with the filing of the present communication, however, the Commissioner is hereby authorized to charge any fees that may be due, or credit any overpayments to Deposit Account No. 19-4880 referencing the above-identified attorney docket number.

Respectfully submitted,

  
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